

THE LEONARD LETTER

May 23, 2005

QUOTE OF THE WEEK

*"I have yet to find the man, however exalted his station, who did not do better work and put forth greater effort under a spirit of approval than under a spirit of criticism." ---
Charles Schwab*

UNDER THE DOME

*****Undercutting Yourself*****

The liberals are sometimes too clever by half. There is a major California Supreme Court tax case called General Motors vs. FTB over the interpretation of the complex formula used to determine the California income tax share of multinational corporations. A number of cases before our Board of Equalization revolve around these factors of the formula. But while Attorney General Bill Lockyer and the Franchise Tax Board are arguing that the current law gives California the right to tax these companies in this way it seems our State Controller Steve Westley and Assemblyman Dario Frommer are arguing that the law does NOT permit this and needs to be changed, so that the state can assess these taxes in the future. Does this not undermine completely the FTB's legal case to try to change the law while that very law is in dispute in court?

Or is Westley who is also the Chairman of the Franchise Tax Board signaling to the Supreme Court that the state's legal position is so weak that it needs a new law to be able to get these taxes?

*****Paycheck Protection Ponderings*****

Two weeks ago, Lew Uhler (National Tax Limitation Committee) submitted signatures for his "Paycheck Protection" initiative. The measure would prohibit union leaders from spending their members' dues on political causes without the express approval of the members. In 1998, California voters considered a similar measure, Proposition 226, which covered all union members, both public and private. Despite the fact that the unions outspent Prop. 226 proponents about 10 to 1, the measure lost narrowly, 47% - 53%. The fact that it was so close is amazing because there was virtually no campaign for the measure. Democrats and their union activists were busy battling a closely contested gubernatorial primary which enhanced their turnout. The lone Republican candidate, Dan Lungren, focused on opposing Prop. 227 (English for the Children) and did not generate great excitement about Republican voters to build the turnout.

That Prop. 226 did so well in those conditions bodes well for the new incarnation of “Paycheck Protection.” A major change from the Prop. 226 language is that the new Uhler initiative is limited to public employee unions only. Will the private sector unions take a pass since the measure does not apply to them? Will the special election timetable favor the proponents in what is a closely divided issue? Will the public sector unions have the resources to fight this reform with all of the other ballot issues pending like teacher tenure reform?

*****Out of the Box Schools*****

In recent weeks the public discourse on education has focused on spending. The fight between the Governor and the California Teachers Union over how much money our schools need has generated debates about how schools function and how students learn.

First, let me share an idea offered by Senator Tom McClintock. It is not new; I remember writing a similar article myself nearly 20 years ago and McClintock has been doing a great job making education spending understandable for a long time now. After pointing out that the K-12 school budget proposed for next year is actually \$2.5 billion more than this year, McClintock finds we will be spending \$10,084 per student. After removing the money spent at the state Department of Education, we are left with \$6,937 per student. McClintock then takes a hypothetical school of 180 students and budgets \$6,937 per student. This would give the school “only” \$1.2 million to get through a year. Rather than putting those students in an existing school (with the filthy bathrooms, leaky roofs and other physical problems we have seen), he proposes leasing luxury commercial office space. Then he wants to hire five teachers—associate professors from Cal State paid at their current rate. He says “since university professors generally assign more reading, we’ll need 12 of the latest edition, hardcover books for each student at an average \$75 per book, plus an extra \$5 to have the student’s name engraved in gold leaf on the cover.” He considers that since the childhood obesity epidemic seems to indicate that our P.E. classes are not working, he proposes an annual membership at a private health club for each student. “Finally, we’ll hire an \$80,000 administrator with a \$40,000 secretary because, well, I don’t know exactly why but we always have.” Here is the budget:

Five classrooms in leased office space: \$158,400
150 desks @ \$130 each: \$19,500
180 annual health club memberships @ \$480 each: \$86,400
2,160 textbooks @ \$80 each: \$172,800
Five CSU professors @ \$67,093: \$225,465
One administrator: \$80,000
One secretary: \$40,000
24% benefits for faculty and staff: \$109,312
Offices, expenses and insurance: \$30,000
Total = \$1,031,877

Second, I have heard many creative ideas from educators and parents. Consider these options: changing the school calendar so it is no longer based on the agrarian lifestyle; altering school hours and having schools offer before- and after-school programs; grouping students by ability rather than grade; having students work on computers that either move them forward when they have mastered a skill or keep reviewing a skill in different ways until it is mastered; creating classes that teach student work skills so that if they do not want to go to college they will be prepared to take on productive jobs.

All of these have value. Some schools might thrive in a non-traditional campus setting. Some students might excel in a technology-based environment. Some families might benefit from different schedules. The problem is that in our current, top-heavy, centralized education system, none of these options can be explored. Creativity is squashed. The pendulum swings all the way in one direction (“outcome-based” education) to the other (excluding everything that does not appear on a standardized test) and back again. We have to dismantle the system, toss out the concept that one-size-fits-all, and enable parents to find the education option that is best for their children.

MONEY MATTERS

*****Taxing Tribes*****

California’s sales tax law is complicated and it is even more complicated when Indian tribes or tribal members are involved. I have recently requested that the Board create a Tax Information Bulletin to clarify this matter for businesses that makes sales to Indians. The challenge for those businesses is that the California sales tax does not apply to sales made to Indians if the property is delivered to the purchaser and the property ownership transfer takes place on the reservation. Indians know this, but the businesses often do not. The business’s invoice to the Indians must state this exemption for their records to be accepted by the Board and reconciled to what the auditors would otherwise think that the business owed to the state. I want to get this message to everyone who does business with tribes so that they do not get caught in the web of red tape for taxes they legitimately did not collect. You can read the full regulation at <http://www.boe.ca.gov/pdf/reg1616.pdf> and soon there will be new publication that explains this situation in plain English.

MISCELLANY

*****A Good Read*****

The summer season is great time to get through some leisure reading. On vacation, I usually leave the heavy philosophy at home and concentrate on good stories -- both fiction and non-fiction. In this vein, I recommend “Flags of Our Fathers,” by James Bradley with Ron Powers. The book is about the six young men in the famous photograph of the flag raising on Iwo Jima during WWII. There were actually two flags raised on Mt. Suribachi that day. The one captured by the iconic photograph featured the author’s father. Three of the six flagraisers in that picture died later in the battle. The

book is about the lives of the six men in the picture, the battle and life after for the survivors and the families. The author's father, John Bradley, was a Navy Corpsman in WWII. Over the years, he almost never talked about the experience. When reporters called as the anniversaries of the event came and went, the children in the house were instructed to tell reporters their father was fishing in Canada.

After John Bradley died, the family discovered a shoebox tucked up in a closet. Inside was a Navy Cross, the second highest military medal, next to the Medal of Honor. Bradley had never mentioned it, not even to his wife. James Bradley wrote: “ ‘The real heroes of Iwo Jima,’ [my father] said once, coming as close as he ever would, ‘are the guys who didn't come back.’”

A very moving and worthwhile read.

BOE AND LEGISLATIVE DATES

May 24-25, 2005 --- BoE meets in Sacramento.

May 30, 2005 --- Memorial Day.

June 2, 2005 --- Tax seminar for Nonprofit and Tax Exempt Organizations in Santa Clarita.

June 15, 2005 --- Budget bill must be passed by midnight.

June 16, 2005 --- Tax seminar for Nonprofit and Tax Exempt Organizations in Bakersfield.

NOTABLE DATES/ HISTORY

May 23, 1774 --- The Chestertown tea party occurred (colonists dumped British tea into the Chester River).

May 23, 1873 --- Post cards were sold in San Francisco for the first time.

May 24, 1866 --- Berkeley, CA was named (for George Berkeley, Bishop of Cloyne).

May 25, 1787 --- The Constitutional Convention began.

May 26, 1898 --- San Francisco approved its City Charter.

May 27, 1647 --- The first recorded U.S. execution of a “witch” took place in Massachusetts.

May 27, 1937 --- The Golden Gate Bridge in San Francisco was dedicated and opened for vehicular traffic the next day.

May 28, 1863 --- The first African-American regiment to fight in the Civil War left Boston to battle the Confederates.

May 29, 2003 --- The intersection of Hollywood Boulevard and Vine Street in Hollywood was renamed Bob Hope Square, on the comedian's 100th birthday.

May 29, 1998 --- Former Arizona Senator and Republican presidential candidate Barry Goldwater died at age 89.

May 29, 1973 --- Tom Bradley was elected the first black mayor of Los Angeles.

May 30, 1854 --- Democrat President Franklin Pierce signed the Democrats' Kansas-Nebraska Act, which expanded slavery into U.S. territories. Opponents of the Act united to form the Republican Party.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115
TDD service for the hearing impaired
TDD phones: 800-735-2929
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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